

SAM P. JONES

IBLA 84-142

Decided June 13, 1984

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting appellant's oil and gas lease offer ES 32495.

Reversed and remanded.

1. Oil and Gas Leases: Lands Subject to

Lands underlying the navigable waters of the State of Michigan passed to the State at the time of its admission to statehood. After passage of the lands to the State, the ownership of the said lands became a matter of State law. In the State of Michigan the title and rights with respect to inland waterways are governed by the same rules of law, regardless of the size of the waterway. Under Michigan law, the riparian and littoral proprietors own to the middle of both navigable and nonnavigable lakes and rivers. By application of Michigan law, when the Federal Government is the owner of the riparian or littoral lands, the Federal Government also is the owner of the appurtenant bottom lands by acquisition from the State of Michigan, and the oil and gas contained in such appurtenant lands are owned by the United States.

2. Mineral Leasing Act: Lands Subject to

Appurtenant lands acquired by the United States prior to Feb. 25, 1920, from the State of Michigan by operation of Michigan law are subject to the Mineral Leasing Act of 1920.

APPEARANCES: Jason R. Warran, Washington, D.C., for appellant.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Appellant has appealed from an October 11, 1983, decision of the Eastern States Office, Bureau of Land Management (BLM), denying appellant's oil and gas lease offer ES 32495 because the lands requested are not public domain lands and because certain of the lands were improperly described.

On May 5, 1983, appellant filed an "Offer to Lease and Lease for Oil and Gas" (Form 3110-1), with the Eastern States Office, BLM. The offer was for a total of 12.2 acres of land located in sec. 2, T. 26 N., R. 10 E., Bay Township, Grand Traverse County, Michigan. On September 16, effective October 1, 1983, BLM issued lease ES 32495 to appellant, but named only lots 15 and 17 in the lease without including the appurtenant bottom lands as a part of the leased lands. A subsequent October 11, 1983, decision issued by BLM stated that the appurtenant bottom lands requested by appellant were not public domain and that the offer had been rejected with respect to an unsurveyed island named in the offer because the island had not been properly described. The appeal is only to the rejection of the offer with respect to appurtenant bottom lands. Appellant has not appealed from the decision that the offer should be rejected as to the island which was improperly described.

The lands sought by appellant appurtenant to lots 15 and 17 lie under Spider Lake, a body of water deemed by both appellant and BLM to be navigable at the time Michigan was granted statehood.

[1] There is no dispute that the lands underlying navigable waters passed to the State of Michigan at the time of its admission. See Pollard's Lessee v. Hagan, 15 U.S. 391 (1845). After the passage of the land to the state, the ownership of such lands became a matter of state rather than Federal law. Hardin v. Jordan, 140 U.S. 371, 382 (1891); Barney v. Keokuk, 94 U.S. 324 (1876).

In the State of Michigan the ownership of natural waters has been divided into two classes, the Great Lakes and the inland waters. Title and rights in the inland rivers and lakes have been declared by the State of Michigan to be governed by the same rules of law regardless of size. Turner v. Holland, 65 Mich. 453, 33 N.W. 283 (1887); Rice v. Ruddiman, 10 Mich. 125, 1 Brown NP 150 (1862). Under the law of Michigan the riparian (littoral) proprietors own to the middle of the lake. Hall v. Wantz, 336 Mich. 112, 57 N.W.2d 462 (1953); Burt v. Munger, 314 Mich. 659, 23 N.W. 2d 117 (1946). By application of the laws of the State of Michigan, the Federal Government has acquired the littoral rights to the lake bed of Spider Lake to the full extent that any upland owner would have those rights.

[2] Since the lands were ceded to the State of Michigan upon statehood and subsequently reconveyed to the Federal Government by operation of the laws of the State of Michigan, the lands are acquired lands. However, these lands were acquired prior to February 25, 1920. The Mineral Leasing Act, as amended, provides: "Deposits of \* \* \* oil, \* \* \* or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired \* \* \* subsequent to February 25, 1920, \* \* \* shall be subject to disposition in the form and manner provided in this chapter \* \* \*." 30 U.S.C. § 181 (1982). Therefore, the lands are subject to leasing under the provisions of the Mineral Leasing Act, 30 U.S.C. §§ 181-287, having been acquired prior to February 25, 1920.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Eastern States Office, BLM, is reversed and the case is remanded for further processing in accordance with this decision.

R. W. Mullen  
Administrative Judge

We concur:

Franklin D. Arness  
Administrative Judge

Edward W. Stuebing  
Administrative Judge

